a bone or cartilage fracture.

REMARKS

Reconsideration of this application is requested in view of the amendments to the claims and the remarks presented herein.

The claims in the application are claims 2 to 5, 8 to 11, 14 and 15, all other claims having been cancelled. It should be noted that claim 15 drawn to the method uses the composition of claim 14 which is drawn to a collagen-free aqueous solution of a polyoxyethylene-polyoxypropylene glycol and an effective amount of a bone morphogenetic protein. Claim 13 has been cancelled and is no longer subject to the rejections thereto. With respect to the Examiner's allegation that claims 10 and 11 are duplicate of one another, this is incorrect since claim 10 is directed to the use of the bone morphogenetic protein BMP-2 and claim 11 is drawn to the use of the bone morphogenetic protein MP-52. Therefore, these are not duplicates of each other. Claim 15 has been amended as suggested by the Examiner with respect to the warm-blooded animal.

On page 4 of the office action, the Examiner held that the application failed to comply with the requirements as set forth in the notice to comply with the amino sequence disclosure because "Upon compliance with the requirements, Applicant must also amend the application to provide the SEQ ID Nos in the specification at

least in the first occurrence of all examples, tables and claims."

Applicants respectfully traverse the Examiner's requirement since it is believed that the specification as it stands and the sequence listing of record is in fact correct. The Examiner apparently objects to the sequence listing of introducing new matter to the specification since she asserts that WO 95/04819 reference as disclosed in the sequence listing is not a properly incorporate reference in the specification. However, the PatenIN software allows the entrance of references relating to the sequence of interest. It is not improper to include non-essential references into the sequence listing and by inclusion of this information, Applicant is barely stating the publication where part of the sequence of interest is published.

The undersigned's representatives spoke with Robert Wax on June 22, 2001 from the U.S.P.T.O. Scientific and Technical Center regarding the improper incorporation by reference rejections by the Examiner and it is his understanding as well that the Examiner is not clear or has misunderstood the Bibliographic Information Data Entry Field of the Sequence Listing. Since the Patent Office's expert is in agreement with the undersigned that the sequence listing already on file is in proper form, withdrawal of this objection is requested. If the Examiner is going to maintain this rejection, she is requested to review the matter with Robert Wax.

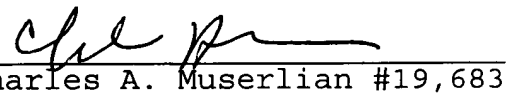
With respect to the rejection of claims 2 to 5 as being indefinite in the definition of the molecular weight of the polymers, it should be noted that claim 2 has the terminology suggested by the Examiner on page 7 of the office action. Claim 14 has been amended to incorporate the Examiner's suggestion and therefore, the claims are deemed to comply with 35 USC 112, second paragraph.

Claims 8 to 11, 13 and 14 were rejected as being obvious over the WO 94/1484 reference taken in view of the JP '546 or the Ron et al reference for reasons of record. Incorporation of all of the limitations cited in the independent composition and method claims were deemed to overcome this ground of rejection.

In view of the amendments to the claims, it is believed that Applicants have complied with the Examiner's suggestion of amending the claims and it should be noted that the claims distinguish over the prior art products for the reasons set forth in the Rule 116 amendment dated August 11, 2000 in that the claims clearly comply with the agreement to put "collagen free" into the claims so as to distinguish from the prior art which requires the presence of collagen in the compositions. Therefore, withdrawal of these grounds of rejection is requested.

In view of the amendments to the claims and the above remarks, it is believed that the claims clearly point out Applicants' patentable contribution and favorable reconsideration of the application is requested.

Respectfully submitted,
Bierman, Muserlian and Lucas

By: 

Charles A. Muserlian #19,683
Attorney for Applicants
Tel.# (212) 661-8000

CAM:ds
Enclosures

line 7, change "polypropylene" to --polyoxypropylene--

line 9, cancel "is" and insert --(a) and (b) are--

line 16, change "Fig. 3 is" to --Figs. 3(a) and (b) are--

Page 10, line 3, change "material" to --composition--

Page 11, lines 1 and 14, change "material" to --composition--

Page 20, line 6, change "material" to --composition--

IN THE CLAIMS:

Cancel claim 12 and add the following claim:

--14. A cartilage and bone morphogenetic repairing composition comprising a collagen-free aqueous solution of a polyoxyethylene-polyoxypropylene glycol and an effective amount of a bone morphogenetic protein, the molecular weight of polyoxypropylene glycol ~~being~~ is as a constituent of said polyoxyethylene-polyoxypropylene glycol, constant 900 to 4000 and the ethylene oxide is 5 to 95% by weight of the polyoxyethylene-polyoxypropylene glycol molecule whereby the solution is aqueous at 1 to 30°C and gelatinizes at about 37°C.--

Cancel claim 7 and add the following claim:

--15. A method of repairing a cartilage and bone fracture in a warm-blooded animal comprising administering locally to the warm-blooded animal a composition of claim 14 at the site of a bone or cartilage fracture.--

Claims 8, 10 and 11, line 1 of each, change "7" to --15--

Claims 2, 4 and 5, line 2 of each, change "claim 12" to --claim 14--

Claims 2 to 5, line 1 of each, change "material" to